

Appl. No. 10/622,313
Amdt. dated September 7, 2006
Reply to Office Action of June 16, 2006

PATENT

REMARKS/ARGUMENTS

I. Status of the Claims

After entry of this amendment, claims 1-72 are pending, with claims 17, 27, 32, 37, 52, 55, 57-59 and 62 having been amended, new claim 72 having been added, and claims 10, 16, 18-31, 41, 44-49, 51-54 and 65-71 having been withdrawn from consideration as being drawn to a non-elected invention.

II. Amendments to the Claims

Claim 17 is amended to delete the second sentence beginning with "A probe" to correct a typographical error, namely, the inadvertent addition of a sentence to the claim.

Claim 27 is amended to replace "a probe as claimed claims" with "the probe of claim" to correct an obvious typographical error and for clarity. Antecedent basis for "the probe" is provided in claim 1.

Claim 32 is amended to insert "for detection of a disease or condition, the antibody" between "antibody" and "being." Support for this amendment is provided in claim 1 and in the specification at, *e.g.*, paragraphs [0010]-[0012].

Claim 37 is amended to insert "claim" before "32" to correct an obvious typographical error of omission.

Claim 52 is amended to insert ", diagnosing" between "treating" and "or preventing" and to replace "including one or more substances adapted to regulate the expression of ATPases or ATPDases that control the supply of ATP to P2X₇ receptors in the cells or tissue of the patient." with "comprising the probe of claim 1." Support for this amendment is provided in claim 1 and in the specification at, *e.g.*, paragraphs [0010]-[0012] and paragraphs [0033]-[0035].

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Claim 55 is amended to replace "claims" with "claim" to correct an obvious typographical error.

Claims 57-59 and 62 are amended to change the claim dependencies.

New claim 72 is added. Support for this claim is provided in claim 39.

No new matter is added by the amendments to claims 17, 27, 32, 37, 52, 57-59, and 62, or by the addition of new claim 72.

III. Claim Objections

The Examiner objected to claims 17, 27 and 42 because of alleged informalities. In particular, the Examiner objects to claim 17 because it allegedly has two separate claims and it is unclear whether it is intended to be a method or product claim. The Examiner objects to claims 27 because it has an obvious typographical error. The Examiner objects to claim 42 because the limitation "wherein the disease or condition" allegedly lacks sufficient antecedent basis.

Applicants have amended claim 17 to delete the second "claim." Thus, claim 17 is intended to be interpreted as a product claim.

Applicants have amended claim 27 to correct the typographical error as suggested by the Examiner.

Applicants have amended independent claim 32 to recite the element "for detection of a disease or condition." Accordingly, antecedent basis for the element "wherein the disease or condition" in claim 42 is provided in claim 32, from which claim 42 depends.

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IV. Restriction Requirement

The Examiner has required restriction to one of fourteen inventions. Applicants elect, without traverse, the invention of Group II: claims 1-9, 11-15, 17, 32-40, 42-43, 50, 55-59 and 60-64 (and new claim 72), drawn to antibodies adapted to distinguish between functional P2X₇ receptors and non-functional P2X₇ receptors, wherein the antibodies bind an epitope extending from Gly200 to Cys216 of the P2X₇ receptor, and compositions and kits comprising the same.

Claims 10, 16, 18-31, 41, 44-49, 51-54 and 65-71 are withdrawn from consideration as being drawn to a non-elected invention. Applicants reserve the right to pursue the non-elected inventions of Groups I and III-XIV in separate divisional applications.

The Examiner has required restriction between product and method claims. Applicants reserve the right to have the method claims (*i.e.*, the inventions of Groups V, VII, VIII, XII and XIII) rejoined with the product claims (*i.e.*, the inventions of Group II) upon subsequent allowance of a product claim. In particular, withdrawn method claims that depend from or otherwise include all the elements of allowable product claims will be rejoined as a matter of right if the amendment is presented prior to final rejection or allowance, whichever is earlier, and the rejoined method claims will be fully examined for patentability.

V. Election of Species

The Examiner has required election of a single disclosed species from among seventeen distinct species of diseases/conditions. Applicants elect, without traverse, skin cancer. Claims 1-14, 18-26, 32-42, 50-59 and 65-70 are readable on this species. Applicants reserve the right to consideration of claims to additional species which depend from or otherwise require all the elements of an allowable generic claim upon subsequent allowance of a generic claim.

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If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



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Attachments
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